



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TJR
Docket No: 3584-00
9 November 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 4 October 1955 at the age of 20. Your record reflects that on 30 December 1955 you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded restriction for two weeks. Shortly thereafter, on 27 January 1956, you received NJP for absence from your appointed place of duty and were awarded a reduction in rate and extra duty for two weeks. On 9 March 1956 you were convicted by summary court-martial (SCM) of a seven day period of unauthorized absence (UA) and were sentenced to confinement for two weeks and a \$35 forfeiture of pay. On 17 August and again on 27 December 1956, you received NJP for absence from your appointed place of duty and drunk and disorderly conduct.

Your record further reflect that on 3 May 1958 you received NJP for insubordination and resisting arrest. The punishment imposed was a reduction in rate. On 13 October 1958 you again received NJP for absence from your appointed place of duty. The punishment imposed was restriction for 14 days.

Your record also reflects that during the period from 30 March to 3 June 1959 you were convicted twice by SCM of two incidents of disobedience, being incapacitated for the proper performance of your duties due to intoxication, and 11 days of UA. You also received NJP during this period for a two day period of UA.

Subsequently, you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. Although you waived your right to consult with legal counsel, you elected to present your case to an administrative discharge board (ADB). An ADB recommended you be issued an other than honorable discharge by reason of unsuitability. Your commanding officer also recommended you be issued an other than honorable discharge. On 12 June 1959 the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 26 June 1959 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you were not represented by legal counsel at the time of your discharge. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent misconduct, which resulted in seven NJPs and three court-martial convictions. Further, the Board noted that you waived your right to be represented by legal counsel. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director